

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEVEN JAY PINCUS HUETER,

Plaintiff,

v.

DEBRA ANN HAALAND, *et al.*,

Defendants.

CASE NO. C21-1271-JCC

ORDER

This matter comes before the Court on pre-service review of Plaintiff Steven Jay Pincus Hueter's complaint (Dkt. No. 6) under 28 U.S.C. § 1915(e)(2) and on Plaintiff's request to issue summons (Dkt. No. 9).

I. BACKGROUND

Plaintiff filed a lawsuit in July 2021 against Ingrid Pederson, Gerald Young, and S/V Falcon (a sailing vessel), alleging that Pederson and Young illegally took the S/V Falcon from a storage facility in Washington State and sailed it to American Samoa, where they now live on the boat. *Hueter v. Pederson*, 2021 WL 4209430, slip op. at 1 (W.D. Wash. 2021) ("*Hueter I*"). The Court granted Pederson's and Young's motion to dismiss the complaint in *Hueter I* for lack of subject matter jurisdiction, explaining that Plaintiff's declaratory judgment claim did not confer federal question jurisdiction; a dispute over a transaction involving a vessel does not confer

1 admiralty jurisdiction; and, as a result, the Court lacked supplemental jurisdiction over Plaintiff's
2 state law claims. *Hueter I*, 2021 WL 4209430, slip op. at 2–3.

3 Plaintiff filed this case in September 2021, and the Honorable Brian A. Tsuchida, United
4 States Magistrate Judge, granted his motion to proceed *in forma pauperis*. (Dkt. No. 5.)
5 Plaintiff's complaint asserts the same claims against Young, Pederson, and the S/V Falcon as in
6 *Hueter I*. (See Dkt. No. 6 at 11–31.) This time, though, Plaintiff also sues U.S. Secretary of the
7 Interior Deb Haaland for allegedly failing to appoint justices to the High Court of American
8 Samoa who will protect Plaintiff's constitutional rights and impartially adjudicate his claims
9 regarding the S/V Falcon. (*Id.* at 8–10.) Plaintiff prays for various forms of relief including a
10 large monetary award, ownership of the S/V Falcon, and an order directing Secretary Haaland to
11 appoint “conflict-free justices” to the High Court of American Samoa and to pay damages to
12 Plaintiff. (*Id.* at 31–35.)

13 **II. DISCUSSION**

14 The Court must dismiss before service a complaint filed *in forma pauperis* if it “fails to
15 state a claim on which relief may be granted; or seeks monetary relief against a defendant who is
16 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B)(ii)–(iii) (section numbering omitted); *see*
17 *Lopez v. Smith*, 203 F.3d 1122, 1229 (9th Cir. 2000).

18 A complaint must be dismissed if it does not contain sufficient factual matter, accepted as
19 true, to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664
20 (2009). The factual allegations must be “enough to raise a right to relief above the speculative
21 level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Dismissal is proper if the
22 complaint lacks a cognizable legal theory or states insufficient facts to support one. *Zixiang v.*
23 *Kerry*, 710 F.3d 995, 999 (9th Cir. 2013). Similarly, courts may dismiss based on qualified
24 immunity under § 1915(e)(2)(B)(iii) “if it is clear from the complaint that the plaintiff can
25 present no evidence that could overcome a defense of qualified immunity.” *See Chavez v.*
26 *Robinson*, 817 F.3d 1162, 1169 (9th Cir. 2016).

1 *Pro se* complaints are read liberally and in the light most favorable to the plaintiff.
 2 *Erickson v. Pardus*, 551 U.S. 89, 93 (2007). Still, § 1915(e) “not only permits but requires”
 3 dismissal of an *in forma pauperis* complaint that fails to state a claim. *Lopez*, 203 F.3d at 1229. If
 4 the Court dismisses the complaint, it should give leave to amend unless “it is absolutely clear”
 5 that amendment would not cure the pleading deficiencies. *Cato v. United States*, 70 F.3d 1103,
 6 1106 (9th Cir. 1995).

7 Plaintiff’s complaint asserts the same claims this Court dismissed in *Hueter I* for lack of
 8 subject matter jurisdiction. The only difference is that he has added claims against Secretary
 9 Haaland apparently to create a basis for federal subject matter jurisdiction.

10 Plaintiff’s claims against the Interior Secretary must be dismissed. First, she is immune
 11 from suit for money damages because it is clear from Plaintiff’s complaint that he can present no
 12 evidence demonstrating that she used her authority to appoint jurists to the Hight Court of
 13 American Samoa,¹ in violation of clearly established law as needed to defeat qualified immunity.
 14 *See Chavez*, 817 F.3d at 1169; *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1865 (2017) (articulating
 15 standard for qualified immunity in suits against federal officials). Second, the Court lacks power
 16 to order an executive branch official to appoint or refrain from appointing a particular person to
 17 an office. *See TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021) (“Federal courts do not
 18 exercise general legal oversight of the Legislative and Executive Branches”); *Stock West*
 19 *Corp. v. Lujan*, 982 F.2d 1389, 1397 n.11 (9th Cir. 1993) (stating “it is doubtful that the district
 20 court has power to order Interior Department approval of the contracts” because “mandamus [is]
 21 not available to instruct an official how to exercise discretion” (citation omitted)).

22 Plaintiff fails to state a claim for relief against Pederson and Young because it is clear
 23 from the face of his Complaint that the doctrine of issue preclusion prevents him from
 24 relitigating the Court’s decision in *Hueter I* that it lacked subject matter jurisdiction over the S/V

25 ¹ REVISED CONST. OF AMER. SAMOA, Art. III, § 3 (“The Secretary of the Interior shall appoint a
 26 Chief Justice of American Samoa and such Associate Justices as he may deem necessary”).

1 Falcon dispute. *See Okoro v. Bohman*, 164 F.3d 1059, 1063 (7th Cir. 1999) (“[A] jurisdictional
2 dismissal is res judicata on [i.e., forecloses the relitigation of] the jurisdictional issue.”); *accord*
3 *Segal v. Am Tel. & Tel. Co.*, 606 F.2d 842, 845 (9th Cir. 1979).

4 Moreover, even if Plaintiff stated cognizable claims against Secretary Haaland (and he
5 does not), the Court would still lack subject matter jurisdiction over the S/V Falcon dispute
6 because his complaint alleges insufficient facts to warrant exercising supplemental jurisdiction
7 over his claims against Young and Peterson.

8 **I. CONCLUSION**

9 For the foregoing reasons, Plaintiff’s request to issue summons (Dkt. No. 9) is DENIED;
10 his claims against Secretary Haaland are DISMISSED with prejudice, and his claims against
11 Young and Pederson are DISMISSED without prejudice to refiling in a Court with appropriate
12 jurisdiction.

13 DATED this 24th day of September 2021.

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A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE